IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 48 of 1998.

For Approval and Signature:

Hon'ble MR.JUSTICE M.S. SHAH. sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes

2. To be referred to the Reporter or not? Yes

3. Whether Their Lordships wish to see the fair copy of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge? No

PATEL BALDEVBHAI AMBALAL

Versus

STATE OF GUJARAT

Appearance:

MR KS JHAVERI for Petitioners

GOVERNMENT PLEADER for Respondent No. 1

MR PB MAJMUDAR for Respondent Nos. 4 & 5

CORAM : MR.JUSTICE M.S.SHAH

Date of Judgment: 12/03/1998

CAV JUDGMENT

This petition under Article 226 of the Constitution challenges the notification dated December 31, 1997 (Annexure "I") issued by the State Government under Section 7 of the Bombay Land Revenue Code, 1879, (hereinafter referred to as "the BLR Code") in so far as it has shifted three villages - Amja, Mubarakpura and Chandisana from the Kalol Taluka of Mehsana District into the Mansa Taluka of Gandhinagar District.

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#. In the month of October, 1997, the State Government had decided to bifurcate certain districts and

talukas and in that process, the district Mehsana was bifurcated into two districts i.e. Mehsana and Patan. Some of the talukas and villages from Mehsana District were also amalgamated with the existing Gandhinagar district. In this process, certain talukas also came to be bifurcated and villages forming part of the original talukas came to amalgamated with one or the other taluka. The notifications under Section 7 of the BLR Code specifying the constitution of the districts and talukas were issued on October 15, 1997. Separate notifications were issued for separate talukas and each of the concerned notifications was accompanied by a schedule containing the list of the names of villages which were included in each particular taluka. The notification mentioned the division and the district of which the taluka shall form a part. The head quarters of the taluka was also specified in each notification. Variations made in December, 1997 in a few of the aforesaid notifications shifting a small number of villages from one taluka to another have given rise to certain petitions. The present petition is one of them.

#. This petition is filed by three different petitioners hailing from three different villages called Amja, Mubarakpura and Chandisana respectively. Prior to and even as per the notification dated October 15, 1997 these three villages were earlier placed in the Kalol taluka of Mehsana district. Previously Mansa was a part of Vijapur Taluka in Mehsana District, but upon division of the district and talukas as aforesaid, Mansa had already been formed as a separate taluka with villages drawn from the erstwhile Vijapur taluka and placed in Gandhinagar district as per the notification dated October 15, 1997. Subsequently by notification dated December 31, 1997 (Annexure "A" to the petition), the said three villages have been placed in Mansa taluka of Gandhinagar district. This petition challenges the aforesaid variations whereby these three village are not merely deleted from the list of the villages in Kalol taluka and placed in another taluka, but also taking them from Mehsana district and placing them in Gandhinagar district.

#. The facts, as averred by the petitioners, are that the petitioners are residents of three villages, namely, Amja, Mubarakpura and Chandisana. Previously, all the three villages were in Kalol taluka of Mehsana District. In view of the decision which the Government proposed to take regarding creation and constitution of the new districts and talukas, the different Gram Panchayats were invited to submit their resolutions for

expressing their choice as to which taluka and district they may like to join. According to the petitioners, the Gram Panchayats of the three villages in question expressed their choice as under :

Sr. No.	Name of village	Choice for Taluka	Choice for District
1.	Amja	Mansa	Gandhinagar
2.	Mubarakpura	Gandhinagar	Gandhinagar
3.	Chandisana	Kalol	Gandhinagar

However, as per the notifications dated October 15, 1997, the three villages remained in Kalol taluka of Mehsana district. According to the petitioners, the aforesaid choice expressed through the Amja village panchayat was without calling the meeting of the Gram Sabha of village Amja and, therefore, the village people had submitted a resolution dated December 11, 1997 protesting against the move to place village Amja in Mansa taluka in Gandhinagar District. As far as village Chandisana is concerned, its Gram Panchayat passed resolution dated November 2, 1997 and requested the State Government to place it in Kalol taluka in Gandhinagar district and as far as village Mubarakpura is concerned, its Panchayat passed a resolution dated November 7, 1997 to merge it with Gandhinagar taluka in Gandhinagar district.

Subsequently by the impugned notification dated December 31, 1997, the aforesaid three villages have been placed in Mansa taluka of Gandhinagar district giving rise to the present petition.

#. At the hearing of the petition, the learned counsel for the petitioners raised the following contentions :-

I Once notification dated October 15, 1997 came to be issued allowing the three villages in question to remain in Kalol Taluka of Mehsana District, it was not open to the State Government to change the said decision abruptly. Once the power was exercised by the State Government under Section 7 of the BLR Code, it was not open to the State Government to change the decision in less than two months.

II There was no justification for making such abrupt variation in less than two months and no reasons are given in the notification for making such abrupt variation in less than two months and, therefore, also the notification dated December 31, 1997 is illegal.

III The impugned notification has been issued without following any procedure and without hearing the affected persons. Neither any public notice was issued nor any of the village persons were called by the State Government or any Government agency indicating that the State Government wanted to reconsider the decision which was already taken earlier and implemented as per the notification dated October 15, 1997. Hence, the impugned decision is in breach of the principles of natural justice.

IV In view of the provisions of Sections 4 and 7 of the Code, the State Government had no jurisdiction or authority to place a village from one district to another district. The three villages are placed not only in a different taluka but also in a different district.

V The Government has not paid heed to the aforesaid resolutions made by the village people of Amja and by Gram Panchayats of Mubarakpura and Chandisana and instead by impugned notification dated December 31, 1997, all the three villages have been placed in Mansa taluka of Gandhinagar district.

VI Allegations of mala fides are made in following terms :-

(a) The aforesaid decision is taken with a view to please Shri Vipul Chaudhary, a Minister in the State Government because the attempt is to see that some of the villages are transferred to a different taluka merely because the particular area is dominated by the Chaudhary Community. The impugned decision as contained in the notification dated December 31. 1997 is taken within a view to obtain undue political advantage for a particular community and in colorable exercise of power.

(b) Revenue Secretary Shri Kapoor was not in agreement with the transfer of these villages

from Kalol taluka to Mansa taluka and the then Revenue Minister Shri Atmaram Patel was also not in agreement with the same, but after removal of Shri Atmaram Patel from the State cabinet, Shri Vipul Chaudhary, managed to see that these villages are included in Mansa taluka. That the decision is mala fide and politically motivated.

VII The impugned notification dated December 31, 1997 was also in violation of the notification dated 18.12.1997 issued by the Election Commission of India restraining the State Government from bifurcating any talukas or districts pending the general elections till 15th March, 1998. The impugned notification dated December 31, 1997 is, therefore, in violation of the aforesaid notification also.

#. At the outset, it has to be noted that the parties which are arraigned as respondents are the State of Gujarat, District Collector, Mehsana District and the District Collector, Gandhinagar District.

After issuance of notice on the petition, the Sarpanch and a member of Amja Gram Panchayat have been permitted to be joined as party respondents and in the affidavit dated 17.2.1998 filed on their behalf, a copy of the resolution dated 3.11.1997 of the Amja Gram Panchayat is produced. It is stated in the said resolution that distance between Amja and Kalol is 22 kms. whereas the distance between Amja and Mansa is only 9 kms. Moreover, the distance between Amja and Gandhinagar is only 16 kms. whereas the distance between Amja and Mehsana is 45 kms. and, therefore, a specific request was made by the Gram Panchayat to place village Amja in Mansa taluka in Gandhinagar district. It is submitted that the impugned decision dated December 31, 1997 is consistent with the wishes of the majority of the people.

Written submissions have been made on behalf of the State Government pointing out that before issuing the notification dated December 31, 1997, the State Government had obtained permission of the Election Commissioner. As regards the contentions raised by the petitioners on merits, it is contended on behalf of the State Government that the issue in question raised by the petitioners is not justiciable and not maintainable in view of the decision of the Supreme rendered in the case of J.R. Raghupathy v. State of A.P., AIR 1988 SC 1681.

Without prejudice to the preliminary submission, the learned Govt. Pleader has also contended that the people of village Amja are in favour of decision to include village Amja in Mansa taluka and that the present petitioner, who is merely a resident of that village, has no right to file the petition. It is also stated that not only the three villages in question, but in all eleven villages from the erstwhile Kalol taluka of Mehsana district have been placed in Mansa taluka of Gandhinagar district. The distance of all the eleven villages from Kalol on the one hand and Mansa on the other hand is shown in Annexure "I" to the written submissions as under :-

Sr. No.	Name of village	Distance from Kalol	Distance from Mansa
1.	Bilodra	25	06
2.	Abuva	25	16
3.	Mubarakpura	22.5	13
4.	Amja	19	12
5.	Nadri	19	12
6.	Chandisana	18	12
7.	Himatpura (Veda)	20	13
8.	Itala	20	08
9.	Balva	21	08
10.	Pratappura	21	08
11.	Rampura	21	08

Reliance is also placed on the map of the North Gujarat region and submitted that looking to the geographic situation of three villages is such that it will be administratively more convenient to administer them as a part of Mansa taluka.

#. Before considering the rival submissions of the parties, it is necessary to refer to the provisions of Section 7 of BLR Code under which the impugned notifications have been issued.

"7. Division to be divided into district.

Each division shall be divided into such districts with such limits as may from time to time be prescribed by a duly published order of the State Government.

A district to consist of talukas

comprising such mahals and villages as State Government may direct - And each such district shall consist of such talukas, and each taluka shall consist of such mahals and villages, as may from time to time be prescribed in a duly published order of the State Government.

And each such mahal shall consist of such

villages as may from time to time be prescribed by a duly published order of the State Government."

A perusal of the aforesaid provisions clearly indicates that the provisions do not confer any right upon any particular person to have a particular village included in a particular taluka or a particular district nor do the said provisions prescribe any specific procedure to be followed by the State Government before taking any decision under the said Section. It is, therefore, clear that while testing the legality or otherwise of the impugned notifications, the Court has to examine the challenge within the parameters of judicial review as delineated by a catena of decisions of the Supreme Court. As held by Their Lordships of the Apex Court in the case of Tata Cellular vs. Union of India, (1994) 6 SCC 651, judicial review, as the words imply, is not an appeal from a decision but a review of the manner in which the decision was made. In para 77 of the judgment, the Apex Court has laid down the following principles :-

"The duty of the court is thus to confine itself

to the questions of legality. Its concern should be :-

1. Whether a decision-making authority exceeded its powers ?
2. committed an error of law,
3. committed a breach of the rules of natural justice,
4. reached a decision which no reasonable tribunal would have reached or,
5. abused its powers.

Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfillment of that policy is fair. It is only concerned with the manner in which the decision has been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under :-

(i) Illegality : This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.

(ii) Irrationality, namely, Wednesbury unreasonableness. It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at. The decision is such that no authority properly directing itself on the relevant law and acting reasonably could have reached it.

(iii) Procedural impropriety.

The above are only the broad grounds but it does not rule out addition of further grounds in course of time. Another development is that referred to by Lord Diplock in R. v. Secretary of State for the Home Deptt., Ex Brind, viz. the possible recognition of the principle of proportionality. In all these cases the test to be adopted is that the court should, "consider whether something has gone wrong of a nature and degree which requires its intervention".

Sir John Laws (Judge of the Q.B. Division) has described "proportionality" as a principle where the Court is

"concerned with the way in which the decision-maker has ordered his priorities; the very essence of decision-making consists surely, in the attribution of relative importance to the factors in the case, and here is my point: This is precisely what proportionality is about."

He further says :

"What is therefore needed in a preparedness to hold that a decision which overrides a

fundamental right without sufficient objective justification will, as a matter of law, necessarily be disproportionate to the aims in view..... The deployment of proportionality sets in focus the true nature of the exercise; the elaboration of a rule about permissible priorities."

In para 81, the Apex Court has further observed that other facets of irrationality test may be mentioned:

(1) It is open to the Court to review the decision-maker's evaluation of the facts. The Court will intervene where the facts taken as a whole could not logically warrant the conclusion of the decision-maker. If the weight of facts pointing to one course of action is overwhelming, then a decision the other way, cannot be upheld.

(2) A decision would be regarded as unreasonable if it is impartial (sic-partial) and unequal in its operation as between different classes.

#. Again in the case of Union of India vs. G. Ganayutham, (1997) 7 SCC 463, the Supreme Court again examined the principle of proportionality and summarized the legal position as under :-

"(1) To Judge the validity of an administrative order or statutory discretion, normally the Wednesbury test is to be applied to find out if the decision was illegal or suffered from procedural improprieties or was one which no sensible decision-maker could, on the material before him and within the framework of the law, have arrived at. The Court would consider whether relevant matters had not been taken into account or whether irrelevant matters had been taken into account or whether the action was not bona fide. The Court would also consider whether the decision was absurd or perverse. The Court would not however go into the correctness of the choice made by the administrator amongst the various alternatives open to him. Nor could the Court substitute its decision to that of the administrator. This is the Wednesbury test.

(2) The Court would not interfere with the administrator's decision unless it was illegal or suffered from procedural impropriety or was irrational in the sense that it was in outrageous defiance of logic or moral standards. The possibility of other tests, including

proportionality being brought into English Administrative Law in future is not ruled out. These are the CCSU principles.

(3)(a) ... ...

(3)(b) ... ...

(4)(a) The position in India, in administrative law, where no fundamental freedoms under Articles 19 and 21, etc, are involved, is that the Courts/Tribunals will only play a secondary role while the primary judgment as to reasonableness will remain with the executive or administrative authority. The secondary judgment of the Court is to be based on Wednesbury and CCSU principles to find if the executive or administrative authority has reasonably arrived at his decision as the primary authority."

4(b) The question whether primary role is to be assumed by the Court in the case of administrative or executive action affecting fundamental freedoms under Articles 19 and 21 etc. has been kept open.

(The Apex Court has made more than amply clear that the Court is not to play the primary role even where the fundamental right under Article 14 is invoked. There is an interesting question which may be required to be examined in an appropriate case. In a case where the challenge under Article 14 on the ground of arbitrariness may not succeed as the Court may hold that out of two or more options available to the authority, the authority has exercised one option, but suppose in that very case serious allegations of factual mala fides (malice in fact) are found to be true after hearing the parties against whom the allegations are made, what course should the Court adopt after quashing the impugned decision :

(i) to do nothing more after quashing the impugned decision,

(ii) to direct the authority (which in all probabilities would be the same authority who had acted mala fide) to reconsider the matter or,

(iii) should the Court play a primary role.

In view of the findings being given in this case, however, it would not be necessary to pursue the above discussion any further).

#. Applying the aforesaid tests, it is clear that the petitioner has not made out any case of illegality because the provisions of Section 7 themselves do not lay down any specific procedure for taking the decision regarding formation of divisions, districts and talukas.

##. At the hearing of the petition, a map of the entire North Gujarat region was shown to the Court and to the learned counsel for the petitioner. A perusal of the map shows that after issuance of notification dated October 15, 1997, there was an area comprising eleven villages including the three villages in question in Kalol taluka in between Mansa taluka and Gandhinagar taluka though both Gandhinagar taluka and Mansa taluka formed part of the same Gandhinagar district. It is submitted on behalf of the Government that all the eleven villages including these three villages were, therefore, required to be deleted from Kalol taluka and placed in Mansa taluka and consequently in Gandhinagar district. Hence, the impugned notification dated December 31, 1997 was not concerned with merely the three villages in question, but it was concerned with all the eleven villages of Kalol taluka and four villages of Vijapur taluka. All the fifteen villages have, therefore, now been placed in Mansa taluka of Gandhinagar district so that Mansa taluka and Gandhinagar taluka remain contiguous talukas in Gandhinagar district.

On perusal of the map the Court is satisfied that the notification dated December 31, 1997 removing the eleven villages including the present three villages from Kalol taluka and placing them in Mansa taluka cannot be said to be arbitrary, perverse or even unreasonable. As far as the test on the score of irrationality is concerned, it cannot be said that the decision of the Government is such that no sensible person who had applied his mind to the question to be decided could have arrived at such impugned decision.

##. As regards procedural impropriety, it is contended that the State Government could not have taken the impugned decision to make the variations under challenge without giving an opportunity of being heard to the village people. It is not possible to read any such requirement either in the provisions of Section 7 of the BLR Code nor as flowing from the provisions of Article 14 of the Constitution. Five new districts were created in the State in October, 1997. That necessarily involved bifurcation or trifurcation of existing districts and talukas and also creation of new talukas. The entire exercise undertaken at the same time was, therefore, a

herculean task. Hence, when the Government took the previous decisions on October 15, 1997, it may not have been in a position to carry out the entire exercise for all the districts and talukas with the necessary meticulous care which the petitioner would have liked the Government to take while taking the decision in respect of a solitary taluka. It was, therefore, open to the Government to apply its mind afresh and to consider whether a few variations here and there were required to be made. While carrying out the said exercise, the State Government could not have been expected to go to the village people again before taking the final decision on question of such variations and it is not possible to cull out any principle to give such opportunity of being heard before making such variations. As a matter of prudence, the Government did give such an opportunity to the village people in October, 1997.

##. At this stage, it is necessary to refer to on the decision of the Supreme Court in the case of J.R. Raghupathy v. State of A.P., AIR 1988 SC 1681 laying down that the conferment of discretion upon the Government in the matter of formation of a Revenue Mandal or location of its Headquarters in the nature of things necessarily leaves the Government with a choice in the use of the discretion conferred upon it and that such decision cannot be interfered with in absence of any material on record to show that the decision of the Government was arbitrary or capricious or was one not reached in good faith or actuated with improper considerations or influenced by extraneous considerations. In para 30 of the judgment, the Court made the following pertinent observations :-

" We find it rather difficult to sustain the judgment of the High Court in some of the cases where it has interfered with the location of Mandal Headquarters and quashed the impugned notifications on the ground that the Government acted in breach of the guidelines in that one place or the other was more centrally located or that location at the other place would promote general public convenience, or that the headquarters should be fixed at a particular place with a view to develop the area surrounded by it. The location of headquarters by the Government by the issue of the final notification under sub-s. (5) of S. 3 of the Act was on a consideration by the Cabinet Sub-Committee of the proposals submitted by the Collectors concerned and the objections and suggestions received from

> the local authorities like the gram panchayats and the general public. Even assuming that the Government while accepting the recommendations of the Cabinet Sub-Committee directed that the Mandal Headquarters should be at place "X" rather than place "Y" as recommended by the Collector concerned in a particular case, the High Court would not have issued a writ in the nature of mandamus to enforce the guidelines which were nothing more than administrative instructions not having any statutory force, which did not give rise to any legal right in favour of the writ petitioners."

Even when the Government decision was not in conformity with the administrative guidelines of recommendations of the Collector, the Apex Court made it clear that it was a matter within the discretion of the Government and a breach of such administrative guidelines cannot give rise to any legal right. In view of the foregoing discussion, it is clear that the impugned decision in the instant case cannot be said to be arbitrary or capricious.

##. On the other hand, the learned counsel for the petitioner has relied on the following decisions :-

1. AIR 1964 SC 962
2. AIR 1991 SC 1118
3. AIR 1997 AP 222
4. AIR 1992 SC 836
5. 1986(1) GLR 377

One look at the official map of Mehsana and Gandhinagar districts, which was shown to the Court and to the learned counsel for the other parties at the time of hearing is sufficient to dispel all the arguments of the petitioners including those based on the ground of political mala fides. The learned counsel for the petitioners has tried to make capital out of the fact that only written submissions are made, but affidavit is not filed on behalf of the State Government and, therefore, the Government should be treated to have admitted the allegations of mala fides and that, therefore, the Court should allow this petition on that basis. Reliance is particularly placed on the observations in para 20 of the judgement in the case of C.S. Rowjee v. State of Andhra Pradesh, AIR 1964 SC 962. Since the allegations of mala fides are made against Shri Vipul Chaudhary without joining him as a party respondent, this Court has not considered the

allegations of mala fides made by the petitioners. Moreover, a bare look at the map of the region in question shows that the impugned decision does not defy logic. A sensible person who had applied his mind to the question to be decision could have arrived at the same decision.

##. In the case of S.C. and Weaker Section Welfare Association (Regd.) vs. State of Karnataka, AIR 1991 SC 1117, the facts were that the Government issued notification dated 17.1.1977 declaring one acre of land in Timber Yard slum in Bangalore as "slum area". After considering the objections, another notification dated 30.12.1977 was issued under the provisions of the Karnataka Slum Areas (Improvement and Clearance) Act, 1973 declaring the entire land as "slum clearance area". However on 30.1.1981 the Government issued notification cancelling the earlier notification dated 30.12.1977 and redeclaring an extent of only 14.5 gunthas as "slum area".

Under the provisions of the aforesaid Act, the residents of the area declared as "slum clearance area" derived certain benefits like basic needs such as streets, water supply, drainage and when slums unfit for human habitation were required to be cleared, alternative accommodation. Hence, the moment land which was already covered by the previous notification dated 30.12.1997 under Section 11 of the Act was taken out of slum clearance area, the residents were deprived of the benefits which were to flow from the previous declaration. It was in this set of circumstances that the Apex Court observed that alternation of the area which is declared to be slum clearance area, without affording the affected persons an opportunity of being heard, would prejudicially affect their rights and, therefore, subsequent notification dated 20.1.1981 was held to be invalid on account of the breach of the principles of natural justice.

In the instant case, there are no pleadings or submissions on record which can make the present case comparable to the aforesaid case. After being placed in Mansa taluka of Gandhinagar district, the residents of Amja, Mubarakpura and Chandisana are not going to be deprived of any legal benefits which they were earlier getting when the villages were in Kalol taluka.

##. In the case of N. Varoda Rajula Reddy v. Govt. of A.P., AIR 1997 A.P. 222, the Court was concerned with the decision of shifting of office of the Executive

Engineer which was alleged to have been taken purely on political consideration. The High Court held that the issue was justiciable and found that there was no material whatsoever available with the Government to take the impugned decision and, therefore, it was within the powers of the Court to interfere in such matters. It was observed that the representations of the political parties cannot be the sole ground to shift the office.

Without expressing any opinion on the correctness or otherwise of the aforesaid decision, it should be noted that in the instant case, the geographical location of the eleven villages including the three villages in question and the distance of these eleven villages from Kalol on the one hand and from Mansa on the other hand as quoted hereinabove clearly show that the impugned decision of the Government cannot be said to be arbitrary or based on no material.

##. The learned counsel for the petitioners has placed reliance on the decision of the Supreme Court in the case of B.N. Shankarappa v. Uthanur Srinivas, AIR 1992 SC 836, and especially the observations made in para 7 thereof that to say that the Government has the discretion to fix the place or location of Mandal Headquarters is not to say that the discretion can be exercised in an arbitrary or whimsical manner without proper application of mind or for ulterior or mala fide purpose. If it is shown that the discretion was so exercised it would certainly be open to the Courts to interfere with the discretion but not otherwise.

In the facts of present case, as already discussed above, it is not possible to say that the discretion has been exercised in an arbitrary or whimsical manner or without proper application of mind. As already discussed earlier, the person against whom allegation of mala fide are made has not been joined as party.

##. The learned counsel for the petitioner has also placed reliance on a decision of this Court in the case of Bavabhai v. State, 1986 (1) GLR 377 wherein it was observed that, while exercising the powers under Section 7A of the BLR Code to exclude the lands from the limits of a village Panchayat, the Government must consider it not only as a matter of the revenue administration and to care for convenience of bureaucracy alone but also the convenience of the people of the area.

In the facts of the present case, the Amja Gram

Panchayat itself had passed a resolution for placing the village in Mansa taluka of Gandhinagar District. The Sarpanch has also filed an affidavit to oppose the petition and to support the Government notification placing the village in Mansa taluka of Gandhinagar district. In any view of the matter, the material on record indicates that there was some difference of opinion amongst different sections of the village people and, therefore, it cannot be said that the impugned decision is contrary to the view of the people of village Amja. Similarly, as far as the other two villages are concerned, their Gram Panchayats had already requested the Government to include the said villages in Gandhinagar district. Hence, petitioners Nos. 2 and 3 can not make a grievance against the impugned notification.

Even otherwise, the view of the village people will be one of the factors to be taken into consideration before taking the final decision. Geographical proximity will also be one of the important considerations for taking such a decision. As already discussed earlier, how to arrange priorities of the relevant considerations is a matter for the administration to consider and the Court is not to substitute its opinion for the decision of the administration.

There is nothing on record to show as to what hardships will be suffered by the people of the concerned villages by the removal of the villages from Kalol taluka/Mehsana district and/or by their being placed in Mansa taluka in Gandhinagar District.

##. In view of the material on record the impugned notification removing eleven villages including Amja, Mubarakpura and Chandisana from Kalol taluka of Mehsana district and placing them in Mansa taluka of Gandhinagar district cannot be said to be illegal, arbitrary, capricious or perverse. The petition is devoid of any merit and deserves to be dismissed.

##. The petition is accordingly dismissed. There shall be no order as to costs. The ad-interim relief granted earlier stands vacated.

Sd/-

(M. S. Shah, J.)

At this stage, the learned counsel for the petitioners prays that the ad-interim relief which was granted earlier may be continued for some time to enable the petitioner to carry the matter in appeal. In the facts and circumstances of the case, the ad-interim

relief granted earlier shall continue till 23.3.1998.

March 12, 1998 (M. S. Shah, J.)